

ORDINANCE NO. 610

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTEE, CALIFORNIA, ADDING SECTION 7.20.100 TO THE SANTEE MUNICIPAL CODE, TO PROTECT THE SAN DIEGO RIVER CORRIDOR, MITIGATE WILDFIRE AND FLOODING RISK IMPROVE WATER QUALITY AND PREVENT THE DESTRUCTION OF CRITICAL HABITAT

WHEREAS, pursuant to Article XI, Section 5 of the California Constitution, and Government Code section 37100, the legislative body of a city may pass ordinances not in conflict with the Constitution and laws of the State or the United States; and

WHEREAS, the City of Santee, California ("City") is a charter city, duly organized under the California Constitution, the Santee City Charter, and the laws of the State of California; and

WHEREAS, the San Diego River Corridor, as defined in this Ordinance and as depicted in Exhibit "A", is an extremely valuable common resource for the people of the City, the County of San Diego, and the State. As such, the City is committed to keeping the San Diego River Corridor as a safe, clean, and healthy habitat for all users of the San Diego River Corridor, including people, wildlife species and fauna, including those with protected species status; and

WHEREAS, communities such as the City, especially in areas such as the San Diego River Corridor, are continually faced with the threat of wildfires, which, when they occur, cause substantial damage to life and property and result in habitat loss; and

WHEREAS, the City Council has determined that the San Diego River Corridor is at risk from human-caused fires and other activities that result in increased flooding risk and water pollution; and

WHEREAS, the City encourages the safe use of open spaces and facilities within the City, including the San Diego River Corridor, by all members of the public; and

WHEREAS, however, the sustained presence of people in the San Diego River Corridor has created unsafe, unsanitary, unhealthy, and dangerous conditions, including but not limited to, the regular ignition of fires by humans, which affect San Diego River Corridor users, public safety first responders, and the general public; and

WHEREAS, human-caused wildfires are a frequent natural disaster in California, causing significant harm and loss to individuals, communities, wildlife and great swaths of natural landscape and the frequency, duration and size of wildfires have increased over the last several decades; and

WHEREAS, the University of Southern California reported that wildfires scorched the American West in 2021, and that "[i]n California alone, Cal Fire recorded 8,835 wildfires that destroyed more than 2.5 million acres cumulatively"; and

WHEREAS, while most of California is subject to some degree of fire risk, specific activities by humans in specific areas make fires particularly hazardous; and

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WHEREAS, approximately 50% of the City is classified as “wildland” for fire purposes, and is covered by vegetation composed of highly combustible grasses, dense brush and chaparral; and

WHEREAS, the City annually experiences extended periods of high temperatures with little or no precipitation, and strong seasonal dry winds from the east (i.e., “Santa Ana Winds”) that can significantly enlarge wildland fires and cause abrupt and unpredictable changes in fire direction, adding to the fire danger and severity within the City; and

WHEREAS, a significant area of the City is located within a high or very high fire hazard severity zone, including portions of the San Diego River Corridor; and

WHEREAS, the San Diego River Corridor is an area where houses meet or intermingle with undeveloped wildland vegetation, and this dynamic places this area especially at risk for human-environment conflicts such as wildland fires, increased flooding risk, water pollution, habitat fragmentation, invasive species, and biodiversity decline; and

WHEREAS, the U.S. Forest Service Research Data Archive from 2000 to 2017, nearly 85% of wildland fires in the United States are caused by humans; and

WHEREAS, a growing number of people have established a regular and sustained presence within the San Diego River Corridor or more remote canyon areas, and as more people are regularly present within high fire zones, the risk of fires starting and causing harm and loss of life has increased; and

WHEREAS, persons maintaining a regular and sustained presence in the San Diego River Corridor often start fires for activities such as cooking food and keeping warm, and these activities increase the risk of nearby brush catching fire and rapidly spreading; and

WHEREAS, persons maintaining a regular and sustained presence in the San Diego River Corridor also start fires to burn trash, burn copper wire or for purposes other than cooking and warmth, and these activities increase the risk of nearby brush catching fire and rapidly spreading; and

WHEREAS, as a result of the regular and sustained presence of people in the San Diego River Corridor, and the fire ignition activities engaged in while present in this area, the City has experienced over two hundred separate fire incidents in the San Diego River Corridor during the last two years; and

WHEREAS, the risk of fires poses a significant threat to all people, especially persons who are not connected to the emergency notification system and who may experience challenges in safely evacuating; and

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WHEREAS, efforts to notify or evacuate persons in remote locations can cause undue harm to outreach workers and first responders including personnel of the Santee Fire Department and San Diego County Sheriff's Department; and

WHEREAS, for all of these reasons, the sustained presence of people in the San Diego River Corridor, and the associated fire ignition activities they engage in, pose a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to life, health, property and/or essential services; and

WHEREAS, as climate change extends and exacerbates the fire season, particular areas of the City pose an increasingly serious risk of harm or loss of life for the City's public safety personnel and residents; and

WHEREAS, to mitigate the foregoing risks, the City Council has determined to prohibit activities that cause the ignition of fires, including cooking and the use of an open flame, many of which are activities associated with the sustained presence of people in areas in the San Diego River Corridor; and

WHEREAS, this Ordinance is also intended to address the increased flooding risk, water pollution risks and impacts to habitat associated with the regular and sustained presence of persons in the San Diego River Corridor. The regular and sustained presence of persons in the San Diego River Corridor adversely changes the flow of water in the system because of human made changes to flow patterns, results in discharges of pollutants, including bacteria, trash and metals, and other wastes to water, and results in the destruction of habitat and species; and

WHEREAS, the City is continuing to develop public and private partnerships to provide a wide-range of services and resources for persons who maintain a regular and sustained presence in the San Diego River Corridor, and to increase permanent supportive housing opportunities in the City; and

WHEREAS, the City has allocated \$1,266,498 in federal funding received from The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and the American Rescue Plan Act ("ARPA") to increase services resources. The City has current partnerships with the following housing support services: PATH San Diego, East County Transitional Living Center, Home Start, Inc., and the East County Homeless Task Force; and

WHEREAS, this Ordinance allows for the implementation of specific time, place, and manner restrictions to establish clear fire, flood and water pollution mitigation measures in order to best serve the health, safety, and general welfare of all. This Ordinance is intended to avoid unsafe, unsanitary and unhealthful conditions, and the degradation or destruction of open spaces, water bodies, and wetlands in the City; and

WHEREAS, City Council desires to protect the public health, safety, and welfare of its first responders, residents, businesses, and visitors; and

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WHEREAS, a further principal threat to the public health, safety, and welfare is the potential destruction of, damage to, or interference with the flora, fauna, hillside habitat, and wildlife in the San Diego River Corridor, and the City desires to prevent this destruction and damage as well.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTEE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 7.20.100 is hereby added to Title 7 of the Santee Municipal Code to read as follows:

7.20.100 SAN DIEGO RIVER CORRIDOR

7.20.110 Declaration of Purpose.

The City Council of the City of Santee intends to mitigate the threat of fire, flooding, water pollution, habitat destruction and other potential causes of destruction and damage to and interference with the San Diego River Corridor, in order to protect the health, safety, and welfare of the public, by placing reasonable time, place and manner restrictions on activities associated with fire ignition, flood risk creation, habitat destruction and water pollution in the San Diego River Corridor.

7.20.120 Definitions.

When used in this chapter, the following words and phrases have the following meanings:

“Fire Prevention Official” means the fire chief, a deputy fire chief, the fire marshal, fire prevention officer or code enforcement officer.

“Competent Ignition Source” or “Ignition Source” means any source that is capable of kindling a fire. It may be in the form of a mechanical or electrical spark, glowing ember, open flame, chemical reaction, friction or similar action that is capable of kindling a fire.

“San Diego River Corridor” means the following areas:

AREA 1:

SAN DIEGO RIVER - WESTERN CITY LIMITS TO CUYAMACA STREET

1. All portions of the State (“Caltrans”) right-of-way adjacent to the San Diego River and Forester Creek confluence,

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including Assessor's Parcel Numbers ("APN") 383-071-09 and APN 383-071-08.

2. APN 383-071-08.
3. APN 383-071-04.
4. All portions of the City of Santee right-of-way underneath the Carlton Hills Boulevard Bridge crossing the San Diego River.
5. APN 383-070-62, excluding the City of Santee installed barbeques at designated picnic table areas within the Mast Park boundary north of the San Diego River Trail.
6. APN 381-040-24, excluding the City of Santee installed barbeques at designated picnic table areas and the disc golf concessions area within the Mast Park boundary north of the San Diego River Trail.
7. APN 381-040-42.
8. All portions of the City of Santee right-of-way underneath the Cuyamaca Street Bridge crossing the San Diego River.

AREA 2:

SAN DIEGO RIVER - CUYAMACA STREET TO MAGNOLIA AVENUE

1. All portions of the City of Santee right-of-way underneath the Cuyamaca Street Bridge crossing the San Diego River.
2. APN 381-050-77.
3. APN 381-050-55.
4. APN 381-050-61.
5. APN 381-050-57.
6. APN 381-050-60.
7. APN 381-050-79.
8. A three segmented portion of the City of Santee right-of-way on Cottonwood Avenue from APN 381-760-77 to the southern terminus adjacent to APN 381-050-77 and APN 381-160-80. The right-of-way from above said portion of Cottonwood Avenue right-of-way easterly to the Magnolia Avenue Bridge crossing the San Diego River. The right-of-way over and along Chubb Lane from the San Diego River confluence to Magnolia Avenue.
9. APN 381-760-77.
10. APN 381-160-82.
11. APN 381-160-80.
12. All portions of the City of Santee right-of-way underneath the Magnolia Avenue Bridge crossing the San Diego River.

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AREA 3:

SAN DIEGO RIVER - MAGNOLIA AVENUE TO EASTERN CITY LIMITS

1. All portions of the City of Santee right-of-way underneath the Magnolia Avenue Bridge crossing the San Diego River.
2. APN 381-160-79.
3. APN 381-160-42.
4. APN 381-050-72.
5. The north easterly portion of APN 773-811-66. Adjacent to APN 381-050-72, APN 381-160-42 and north of the retaining wall at the northern easterly portion of APN 773-811-66 adjacent to the San Diego River.
6. APN 381-160-35.
7. APN 381-160-19.
8. APN 381-160-69.
9. APN 381-171-04.
10. APN 381-171-07.

AREA 4:

FORESTER CREEK – SAN DIEGO RIVER CONFLUENCE TO SOUTHERN CITY LIMITS

1. All portions of the State ("Caltrans") right-of-way adjacent to the north side of Mission Gorge Road from the San Diego River and Forester Creek confluence to APN 383-153-12 and south of the residential properties along the southern side of Gorge Avenue.
2. APN 383-153-12.
3. All portions of the City of Santee right-of-way underneath the Mission Gorge Road Bridge crossing the Forester Creek Channel.
4. APN 383-124-19.
5. All portions of the City of Santee right-of-way along the Forester Creek Channel from Mission Gorge Road to the State Route 52 overcrossing.
6. All portions of the State ("Caltrans") right-of-way underneath the SR-52 bridges crossing the Forester Creek Channel.
7. APN 383-124-20.
8. APN 383-124-55.
9. APN 383-124-58.
10. APN 383-124-62.
11. APN 384-011-18.
12. APN 384-011-17.

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13. All portions of the City of Santee right-of-way along the Forester Creek Channel from the State Route 52 overcrossing to the olive lane bridge adjacent to APN 384-020-60 and APN 384-311-23.
14. APN 384-011-19.
15. APN 384-012-14.
16. APN 384-012-54.
17. APN 384-012-15.
18. APN 384-012-47.
19. APN 384-012-56.
20. APN 384-012-21.
21. APN 384-012-57.
22. APN 384-020-60.
23. All portions of the City of Santee right-of-way underneath the Olive Lane Bridge crossing the Forester Creek Channel.
24. APN 384-311-23.
25. APN 384-311-43.
26. APN 384-311-44.
27. APN 384-311-45.
28. All portions of the City of Santee right-of-way located at the north east side of Prospect Avenue at the Pathway Street intersection. Adjacent to APN's 384-311-45 and 384-311-51.
29. APN 384-311-51.
30. All portions of the City of Santee right-of-way underneath the Prospect Avenue Bridge crossing the Forester Creek Channel.

The San Diego River Corridor is also depicted in Exhibit "A."

The San Diego River Corridor as described and depicted herein is also a "waterbody" as used in section 7.20.060 of this Code.

7.20.130 Prohibited Activities.

- A. It is unlawful and a public nuisance for any person, other than as directed by a Fire Prevention Official, to use a Competent Ignition Source to cause or intend to cause a fire within the San Diego River Corridor. Unlawful activities include, but are not limited to, arson, burning of debris or wire, campfires, cooking, or use of explosives or fireworks.

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- B. It is unlawful and a public nuisance for any person using or possessing a Competent Ignition Source to camp or use camp paraphernalia in the San Diego River Corridor.
- C. It is unlawful and a public nuisance for any person to camp or use camp paraphernalia within the San Diego River Corridor in a manner that obstructs or could obstruct the flow of water within the San Diego River Corridor.
- D. It is unlawful and a public nuisance for any person to camp or use camp paraphernalia within the San Diego River Corridor in a manner that causes or threatens to cause a discharge of any pollutant or waste within the San Diego River Corridor.
- E. It is unlawful and a public nuisance for any person to camp or use camp paraphernalia within the San Diego River Corridor in a manner that causes or threatens to cause damage to any threatened or endangered species or critical habitat.

7.20.140 Abatement.

- A. A violation of section 7.20.130 may be abated in any manner permitted by the Municipal Code or state or federal law.
- B. Because of the extreme risk of fires, flooding, water pollution or habitat destruction to health and public safety, a violation of section 7.20.130 may be abated immediately in accordance with the following procedures:
 - 1. The Fire Prevention Official may make a determination that (1) an activity in the San Diego River Corridor constitutes an activity prohibited by section 7.20.130 and (2) such activity creates an immediate threat to the health, safety or welfare of persons or property in the San Diego River Corridor.
 - 2. If the Fire Prevention Official makes the above determinations, then a directive will be issued to proceed with any abatement required to alleviate the immediately dangerous conditions.

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3. After any abatement activity for a violation or violations of section 7.20.130, the City will provide notice of such abatement to any responsible parties and a post-abatement hearing in accordance with section 1.14.030.

7.20.150 Interference with Abatement.

No person shall willfully prevent, delay, resist, obstruct, or otherwise interfere with a City official, employee, contractor, or volunteer in their execution of an abatement pursuant to this Chapter.

7.20.160 Violation—Penalty.

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to Chapters 1.04, 1.08, 1.10, and 1.12.
- B. Violations of this chapter are hereby declared to be a public nuisance.
- C. All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the City from any other available remedy.

SECTION 2. CEQA. The City Council has reviewed the matter and hereby finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2), 15060(c)(3) and/or 15061(b)(3) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, in that it will not result in a direct or reasonably foreseeable indirect physical change in the environment nor have a significant impact on the environment. Further, this ordinance is exempt pursuant to Sections 15307 and 15308 of the State CEQA Guidelines, as its purpose is to mitigate fire risk and keep the San Diego River Corridor a safe, clean, and, healthy habitat. None of the exceptions to the exemptions found in State CEQA Guidelines section 15300.2 apply. Staff is hereby directed to prepare, execute and file with the San Diego County Clerk a CEQA Notice of Exemption within five (5) working days of the adoption of this Ordinance.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council of the City of Santee hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence,

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clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrases be declared unconstitutional.

SECTION 4. This Ordinance shall become effective thirty (30 days) after its adoption.

SECTION 5. The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law.

INTRODUCED AND FIRST READ at a Regular Meeting of the City Council of the City of Santee, California, on the 11th day of January, 2023, and thereafter **ADOPTED** at a Regular Meeting of the City Council held on this 25th day of January, 2023, by the following vote to wit:

AYES: HALL, KOVAL, MCNELIS, MINTO, TROTTER

NOES: NONE


ABSENT: NONE

APPROVED:



JOHN W. MINTO, MAYOR

ATTEST:



ANNETTE ORTIZ, CMC, CITY CLERK

Attachment: Exhibit A

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EXHIBIT 'A'

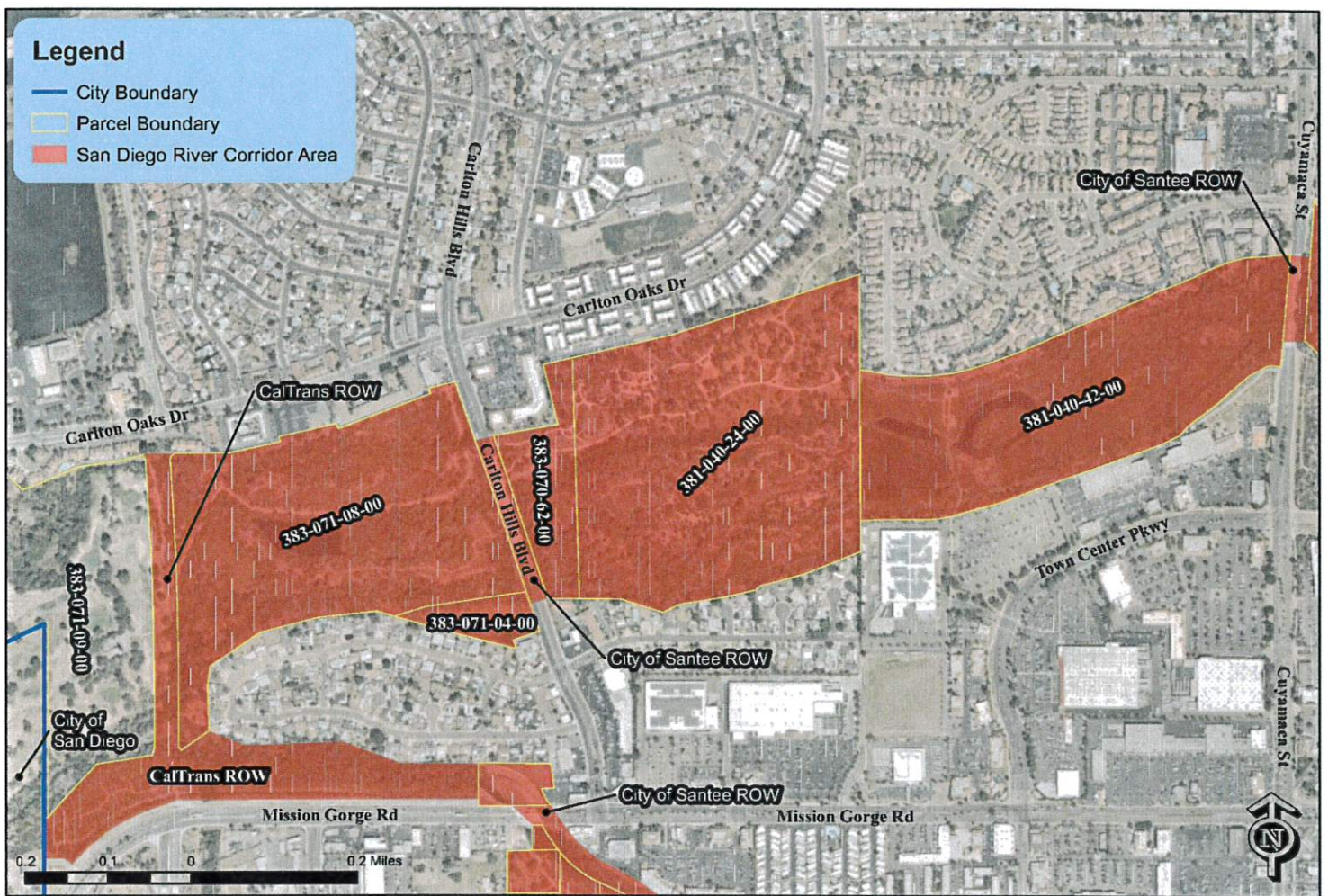
Maps of the San Diego River Corridor

(when codified include the following language in place of the map of the San Diego River Corridor: "Exhibit 'A' is on file with the City Clerk, and is available at 10601 Magnolia Avenue, Santee, California 92071)

San Diego River Corridor

Western City Limits to Cuyamaca St.

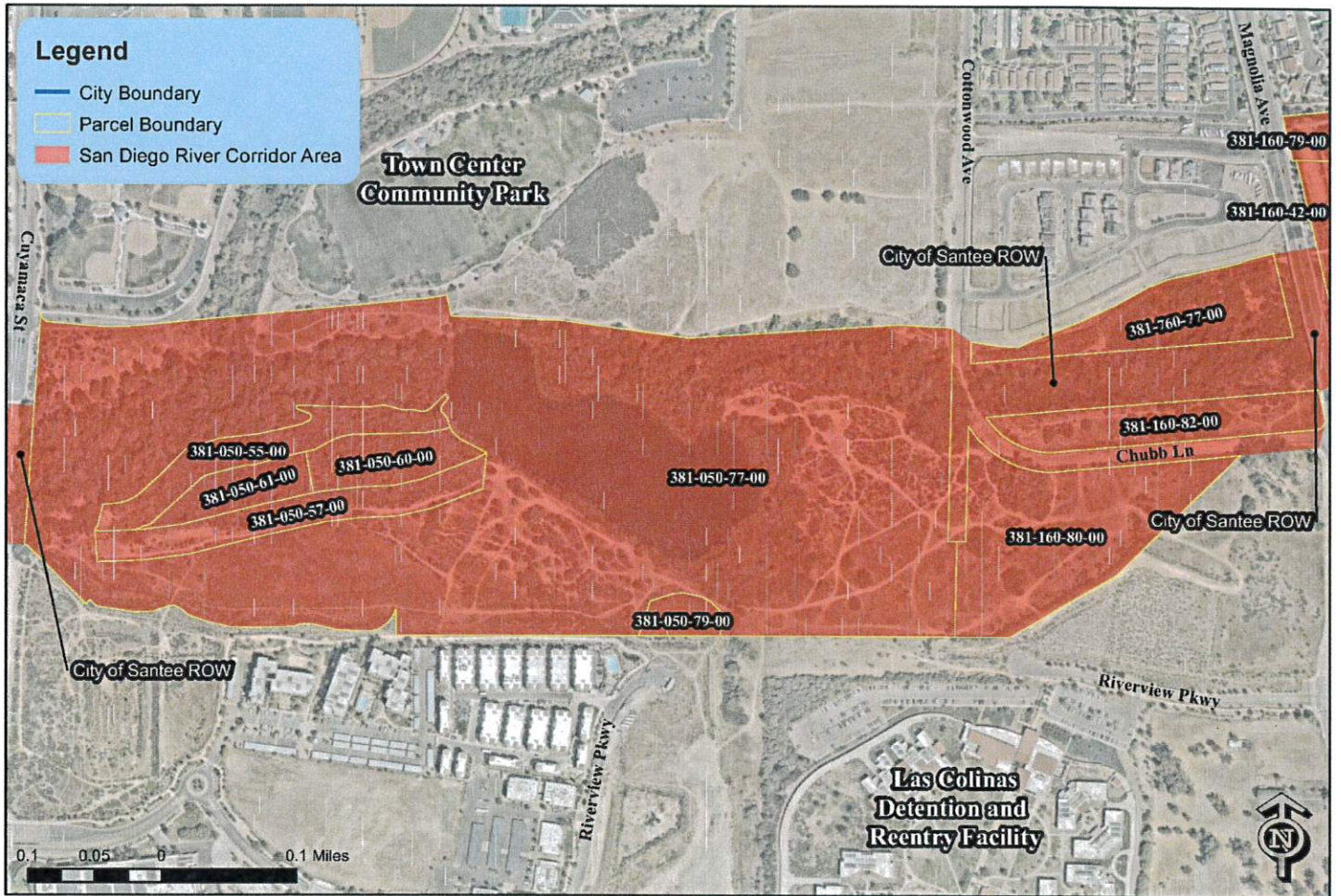
Area#1



San Diego River Corridor

Cuyamaca St. to Magnolia Ave.

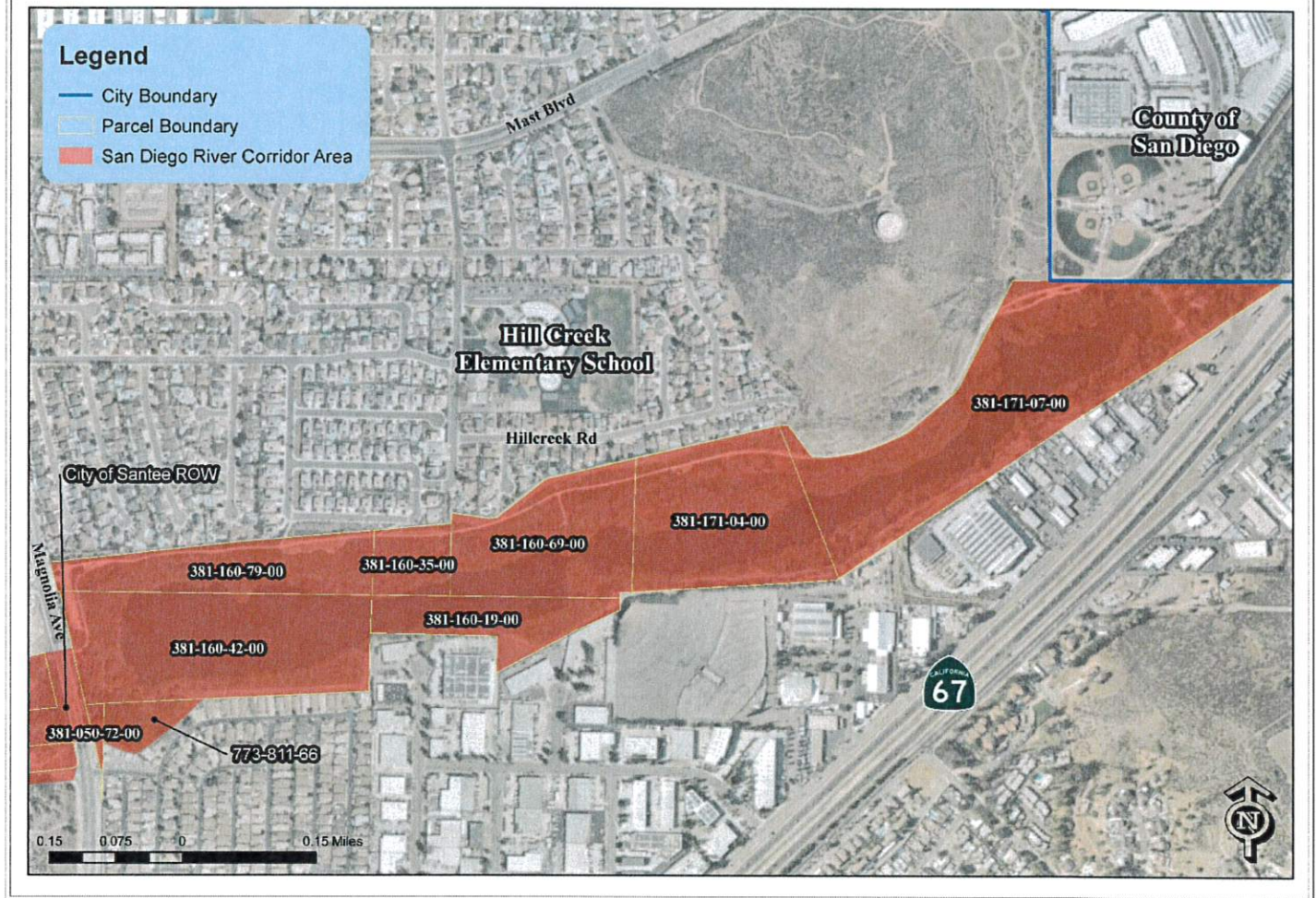
Area #2



San Diego River Corridor

Magnolia Ave. to Eastern City Limits

Area #3



Forester Creek

Area #4

San Diego River Confluence to Southern City Limits

